

Applicants respectfully traverse the rejection.

Lewis teaches a process of isolating the lactone form of hydroxycitric acid from *Garcinia*, which process comprising the following steps:

1. autoclaving fruit rind of *Garcinia cambogia* with water to obtain a water extract;
2. cooling and filtering the water extract to obtain a dark brown aqueous filtrate;
3. concentrating the dark brown aqueous filtrate;
4. treating the concentrated dark brown aqueous filtrate with ethanol with stirring causing a precipitate to form;
5. removing the precipitate by filtration to obtain an acidic aqueous filtrate containing alcohol;
6. treating the acidic aqueous filtrate containing alcohol with 40% KOH with stirring to obtain a heavy oily liquid;
7. washing the heavy oily liquid with ethanol and letting it stand overnight;
8. decanting the ethanol to obtain a yellow semisolid;
9. drying the yellow semisolid in vacuo to obtain a salt;
10. forming a 10% solution of the salt and passing the salt solution through a cation exchange column;
11. washing the column with water to obtain an effluent;
12. evaporating the effluent to dryness and letting it stand in a desiccator for 7-8 days to obtain a light brown, crude crystalline mass; and

13. purifying the light brown, crude crystalline mass by extraction and recrystallization from ether to obtain hydroxycitric acid in lactone form (see Lewis, pp. 615-616).

Lewis differs from the claimed process in at least four ways:

(1) Lewis' process makes hydroxycitric acid **in lactone form** (see Lewis, p. 615, line 10), but the claimed process makes hydroxycitric acid **not in lactone form** (claims 1, 2 and 5-17 explicitly state that the claimed process makes hydroxycitric acid not in lactone form);

(2) Lewis treats an **aqueous extract** of *Garcinia* fruit with alcohol, but the claimed process directly treats *Garcinia* fruit with alcohol;

(3) Lewis treats an **aqueous filtrate** containing alcohol with KOH (see step 6 in the above summary), but the claimed process treats an **alcohol extract** with KOH;

(4) in Lewis' process, there are numerous laborious steps after the KOH treatment step (i.e. treating the acidic aqueous filtrate containing alcohol with KOH results in a heavy oily liquid, which is washed with ethanol, removing the ethanol to obtain a yellow semisolid, drying the yellow semisolid to obtain a salt, passing the salt through a cation exchange column to obtain an effluent which is dried to obtain crude crystals, and purifying the crude crystals with ether extraction and recrystallization), but in the claimed process there are only several simple steps after the KOH treatment step (i.e. after treating the alcohol extract with KOH, the treated extract is simply refluxed to obtain potassium hydroxy citrate precipitate which is washed and dried to obtain

potassium hydroxy citric acid).

The Office Action only acknowledges that Lewis differs from the claimed process in not refluxing the KOH treated alcohol extract to obtain potassium hydroxycitric acid. Because the Office Action is silent on the other differences noted above, the Office Action has not met the Patent Office's burden of proving prima facie obviousness. The Office Action attempts to rely on Lowenstein to cure the differences between Lewis and the claimed process. But Lowenstein merely teaches that the free acid form of hydroxycitric acid may be obtained from the lactone form of hydroxycitric acid by treatment with KOH followed by acidification (see column 1, lines 35-39).

Therefore, in order to modify Lewis' process, with the teachings of Lowenstein, to make free acid form of hydroxycitric acid, one of ordinary skill in the art would have to take the lactone form of hydroxycitric acid made by the laborious process of Lewis and subject the lactone form to KOH treatment followed by acidification. In other words, the process resulting from the combination of the teachings of Lewis and Lowenstein would be even more laborious compared with the claimed process, than Lewis' process.

Thus, applicants submit that Lewis in view of Lowenstein would not have rendered the claims obvious because of two basic reasons. First, Lowenstein does not cure the four differences between Lewis and the claimed invention because Lowenstein is silent on those steps of the claimed process. Second, even if one of ordinary skill were to follow the Office Action's instruction of combining the steps of Lewis' process and Lowenstein' process to arrive at a process for making free acid form of

hydroxycitric acid, the resulting process would have more than the four differences discussed above because the artisan would have to treat the lactone form of hydroxycitric acid prepared by the process of Lewis with KOH and then acidify it to obtain the free acid form of hydroxycitric acid as taught by Lowenstein.

Withdrawal of the obviousness rejection of claims 1, 2 and 5-17 is requested.

Conclusion

With the above amendments and reasoning, withdrawal of all rejections is respectfully requested. Applicants submit that the application is in a condition for allowance.

In case this paper is not timely filed, the undersigned hereby petitions for an appropriate extension of time. In the event that any fees are due in connection with this paper, please charge our Deposit Account No. 14-1060.

Respectfully submitted,
NIKAIDO, MARMELESTEIN, MURRAY & ORAM LLP

King L. Wong

King L. Wong
Attorney for Applicant(s)
Reg. No. 37,500

Attorney Docket No.: P8064-8009

Metropolitan Square
655 15th Street, N.W.
Suite 330 - G Street Lobby
Washington, D.C. 20005-5701
Tel. (202) 638-5000